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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|--------------------|----------------------|-------------------------|------------------------|
| 10/581,868 | 06/05/2006 | Yusuke Kasuya | 2710/76408 | 3927 |
| Donald S Dowden Cooper & Dunham 1185 Avenue of the Americas New York, NY 10036 | 7590 01/29/2009 | | EXAMINER HO, HA DINH | |
| | | | ART UNIT 3655 | PAPER NUMBER |
| | | | MAIL DATE 01/29/2009 | DELIVERY MODE PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/581,868 | KASUYA, YUSUKE | |
| | Examiner | Art Unit | |
| | HA D. HO | 3655 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 05 June 2006.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,3-6 and 9-18 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1,3-6 and 9-18 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

1. This is the first Office Action on the merits of Application No. 10/581,868 filed on 06/05/06. Claims 1, 3-6 and 9-18 are currently pending.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because:

- it has more than one paragraph, and
- the implied phrases are used, i.e., "the invention is to provide" (line 1), and "is provided in the invention" (line 4).

Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1, 3-6 and 9-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- In claims 1, 3-6 and 9-18, line 1, the addition of the words “type” to an otherwise definite expression extend the scope of the expression in the claims so as to render the claims indefinite. Ex parte Copenhaver, 109 USPQ 118 (Bd. App. 1955).
- The following limitations lack antecedent basis:
 - “the shift lever” in claim 1, line 4,
 - “the shift length” in claim 1, line 4,
 - “the shift length” in claim 1, line 5,
 - “the reverse stage” in claim 1, line 5,
 - “the forward stage” in claim 1, line 6,
 - “the operating measurement” in claim 1, lines 6-7,
 - “the neutral position” in claim 1, line 8,
 - “the reverse position” in claim 1, line 9,
 - “the first stage” in claim 3, line 2,
 - “the second stage” in claim 3, line 4,
 - “the rotation angle” in claim 4, line 2,
 - “the rotation angle” in claim 4, line 3,
 - “the rotation angle” in claim 5, line 2,
 - “the rotation angle” in claim 5, line 3,
 - “the shift lever” in claim 6, line 3,

Art Unit: 3655

- “the operating measurement” in claim 6, lines 3-4,
- “the second stage” in claim 6, line 4,
- “the operating measurement” in claim 6, line 5,
- “the first stage” in claim 6, line 5,
- “the neutral position” in claim 6, line 7,
- “the rotation angle” in claim 10, line 3,
- “the rotation angle” in claim 10, line 4,
- “the rotation angle” in claim 11, line 3,
- “the neutral position” in claim 11, line 4,
- “the rotation angle” in claim 11, lines 4-5,
- “said shifters” in claim 12, line 2,
- “the first shifter” in claim 12, line 2,
- “the second shifter” in claim 12, line 3,
- “the length” (both occurrences) in claim 13, line 2,
- “the forward shifting stage” in claim 14, line 2,
- “the reverse shifting stage” in claim 14, line 3,
- “the rotation angle” in claim 15, line 2,
- “the rotation angle” in claim 15, lines 2-3,
- “the rotation angle” in claim 16, line 2,
- “the rotation angle” in claim 16, lines 2-3,
- “the rotation angle” in claim 17, line 2,
- “the neutral position” in claim 17, line 3, and

- “the rotation angle” in claim 17, line 4.
- In claim 1, line 10, the recitation of “a vertical position” constitutes a double inclusion since it was previously recited in claim 1, line 9.
- In claim 3, line 2, the recitation of “a vertical position” constitutes a double inclusion since it was previously recited in claim 1, line 9.
- In claim 3, lines 3-4, the recitation of “a vertical position” constitutes a double inclusion since it was previously recited in claim 1, line 9.
- In claim 6, line 9, the recitation of “a vertical position” constitutes a double inclusion since it was previously recited in claim 6, line 8.
- In claim 9, line 5, the recitation of “a vertical position” constitutes a double inclusion since it was previously recited in claim 6, line 8.
- In claim 10, line 5, the recitation of “a vertical position” constitutes a double inclusion since it was previously recited in claim 6, line 8.
- In claim 10, line 6, the recitation of “a vertical position” constitutes a double inclusion since it was previously recited in claim 6, line 8.
- In claim 11, line 3, the recitation of “a vertical position” constitutes a double inclusion since it was previously recited in claim 6, line 8.
- In claim 11, line 5, the recitation of “a vertical position” constitutes a double inclusion since it was previously recited in claim 6, line 8.
- In claim 18, line 3, the recitation of “a vertical position” constitutes a double inclusion since it was previously recited in claim 6, line 8.

- In claim 18, lines 4-5, the recitation of “a vertical position” constitutes a double inclusion since it was previously recited in claim 6, line 8.

Double Patenting

6. Applicant is advised that should claims 5 and 11 be found allowable, claims 15 and 18 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Allowable Subject Matter

7. Claims 1, 3, 4, 6, 9, 10 and 12-18 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Cited Prior Art

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (see the attached form PTO-892).

Communication

9. Submission of your response by facsimile transmission is encouraged. The fax phone numbers for the organization where this application or proceeding is assigned are **(571) 273-8300**. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as

well as the PTO's mail room processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission, see M.P.E.P. 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check should not be submitting by facsimile transmission separately from the check. Responses submitted by facsimile transmission should include a Certificate of Transmission (M.P.E.P.. 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to
the Patent and Trademark Office on _____
(Date)

Typed or printed name of person signing this certificate:

(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and M.P.E.P.. 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ha D. Ho whose telephone number is **571-272-7091**. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on **571-272-7095**.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/HDH/
(571) 272-7091
January 29, 2009

/Ha D. Ho/
Primary Examiner, A.U. 3655